

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 08-20469-BC
Honorable Thomas L. Ludington

ROGERICK DANDRE WILLIAMS,

Defendant.

/

ORDER DENYING DEFENDANT'S "MOTION TO SUPPRESS MOTION FOR RECONSIDERATION FOR ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS BASED UPON NEW SUPREME COURT AUTHORITY" AND DEFENDANT'S "MOTION TO SUPPRESS"

On September 26, 2008, a single count indictment [Dkt. # 3] was filed against Defendant Rogerick Dandre Williams for a violation of 18 U.S.C. § 922(g), felon in possession of a firearm. Subsequent to a hearing, on March 26, 2009, the Court denied Defendant's motion to suppress evidence found during a search of his vehicle. *See* [Dkt. # 14, 23]. On April 1, 2009, Defendant entered a guilty plea; his sentencing hearing is scheduled for July 30, 2009. Now before the Court is Defendant's motion for reconsideration of his motion to suppress [Dkt. # 29], based on *Arizona v. Gant*, - - - S. Ct. - - - , 2009 WL 1045962 (U.S. Apr. 21, 2009). On May 19, Defendant filed a revised version of his motion [Dkt. # 31], which does not differ in basic substance from the original.

On May 29, 2009, the government filed a response [Dkt. # 32]. The government contends that Defendant's guilty plea precludes reconsideration of his motion to suppress because a guilty plea removes the issue of factual guilt, citing *Menna v. New York*, 423 U.S. 61, 62-63 n.2 (1975). The government suggests that Defendant's proper recourse is to file a motion to withdraw his plea

pursuant to Rule 11(d)(2)(B) of the Federal Rules of Criminal Procedure, which allows a defendant to withdraw a guilty plea prior to sentencing if “the defendant can show a fair and just reason for requesting the withdrawal.” The government concedes that the impact of *Arizona v. Gant* provides a fair and just reason to allow Defendant to withdraw his plea and indicates that it would not oppose a properly filed motion by Defendant. The government is correct and the Defendant’s motions to reconsider his motion to suppress will be denied.

Accordingly, it is **ORDERED** that Defendant’s “motion to suppress motion for reconsideration for order denying Defendant’s motion to suppress based upon new Supreme Court Authority” [Dkt # 29] and Defendant’s “motion to suppress” [Dkt. # 31] are **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 5, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 5, 2009.

s/Tracy A. Jacobs
TRACY A. JACOBS